

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

DAVID S. YARNALL,)	
)	
Plaintiff,)	CONSOLIDATED
)	
v.)	CIV. No.: 05-527-SLR
)	
CPL. ANTHONY MENDEZ, DELAWARE)	CIV. NO.: 06-501-SLR
STATE POLICE - TROOP 7, PTLM)	
LOWE, UNKNOWN OFFICERS WHO)	CIV. NO.: 06-529-SLR
RESPONDED TO SCENE OF)	
MILLSBORO POLICE, AND PFC)	
BUCHERT,)	
)	
Defendants.)	

**MOTION OF PTLM LOWE AND PFC BUCHERT FOR CLARIFICATION OF THE
COURT'S AUGUST 10, 2006 ORDER REGARDING DISCOVERY AND SUMMARY
JUDGMENT MOTIONS AND MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Defendants Ptlm Lowe and PFC Buchert hereby move the Court for Clarification of the Court's August 10, 2006 Order and/or Extension of the Deadlines set forth therein. In support of their Motion, defendants state the following:

1. On August 10, 2006 the Court entered an Order (D.I. 38) which required that discovery be completed by December 11, 2006 and that summary judgment motions be filed on or before January 11, 2007. The only defendants in the case on August 10, 2006 were Cpl. Anthony Mendez and Delaware State Police.

2. On September 26, 2006 the Court allowed plaintiff to amend the Complaint to add Ptlm Lowe and PFC Buchert as defendants. (D.I. 50) Ptlm Lowe and PFC Buchert filed an Answer and Affirmative Defenses on December 4, 2006. (D.I. 59 and 60).

3. Plaintiff served Interrogatories on defendants Ptlm Lowe and PFC Buchert on December 11, 2006 (D.I. 69). Plaintiff filed a Motion for Summary Judgment against defendants Lowe and Buchert on December 18, 2006 (D.I. 74).

4. Because only 17 days have passed since defendants Lowe and Buchert filed their Answer to plaintiff's Complaint, they have had no opportunity to take discovery (or respond to plaintiff's discovery) and do not have sufficient information upon which to prepare a brief in support of a summary judgment motion or to respond to plaintiff's summary judgment motion.

WHEREFORE, defendants Ptlm Lowe and PFC Buchert request that the Court issue a new Order (1) extending the discovery and summary judgment motion deadlines with respect to plaintiff's claims against Ptlm Lowe and PFC Buchert and (2) granting Ptlm Lowe and PFC Buchert an extension of time for the filing of their Answering Brief in Opposition to Plaintiff's Motion for Summary Judgment until the completion of discovery.

AKIN & HERRON, P.A.

/s/ Bruce C. Herron
Bruce C. Herron
Attorney I.D. No.: 2315
1500 Shallcross Avenue
Suite 1-A
Wilmington, DE 19806
(302) 427-6987
Attorneys for Defendants
Ptlm Lowe and PFC Buchert

Dated: December 21, 2006

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